



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:

**BOARD OF PROFESSIONAL LAND SURVEYORS
Rules and Regulations Hearing & Board Meeting**

DATE AND TIME:

Thursday, December 16, 2010 at 8:30 a.m.

PLACE:

861 Silver Lake Boulevard, Dover, Delaware
Conference Room A, second floor of the Cannon Building
January 20, 2011

APPROVED:

MEMBERS PRESENT

Steven Sellers, Professional Member
Michael Szymanski, Professional Member
Laurence McBride, Professional Member
James Bielicki, Jr., Professional Member
Mary Chvostal, Public Member
Frank Szczuka, Public Member

DIVISION STAFF

Frederick Schranck, Deputy Attorney General
Sandra Wagner, Administrative Specialist III

MEMBERS ABSENT

PUBLIC

John VanSickle
Uzoma Ahiaarakwe
Bruce McKenna
Ellen McKenna

CALL TO ORDER

Mr. Sellers called the meeting to order at 8:37 a.m.

Review and Approval of Minutes

Mr. Szymanski moved to have the minutes amended, with a change to a sentence under other business. Mr. Szymanski made a motion, seconded by Mr. McBride to approve the minutes with change for November 18, 2010. The motion was unanimously approved.

Unfinished Business

Deliberations of the Hearing for Bruce McKenna

Laurence McBride and Mary Chvostal were recused from deliberations

Mr. Szczuka started the discussion out with wanting Mr. McKenna to complete a risk assessment. Mr. Bielicki doesn't feel that this should be done. He feels this is overkill. Mr. Szczuka stated that it is a good idea and that he is looking out for the public. Mr. Szczuka wanted to find out what the classification for being on tier one meant. Mr. McKenna provided the classification of his tier classification from NJ. For 15 years he has to maintain his tier one and provide the Board periodic updates. The Board discussed a letter of reprimand and probation that would run concurrent to the State of New Jersey's January 30, 2013 date. Mr. Szczuka asked how NJ came to the conclusion of putting Mr. McKenna on tier one. Mr. McKenna stated that he was put on tier one by the prosecutors from NJ and that he didn't have an assessment done. Mr. Szczuka still wants to have an evaluation done in DE. The Board decided to make separate motions.

Mr. Szymanski made a motion, seconded by Mr. Bielicki, to have in the order that Mr. McKenna violated our rules and regulations with a criminal conviction. Discussion, Mr. Szczuka wanted to make sure the violation stated in the order was the one in particular of sexual conduct. The motion unanimously carried.

Mr. Szymanski made a motion, seconded by Mr. Bielicki, to have a letter of reprimand sent to Mr. McKenna. The motion unanimously carried.

Mr. Szymanski made a motion, seconded by Mr. Bielicki to have probation run concurrent with New Jersey, which Mr. McKenna would be on probation in the State of Delaware until January 31, 2013. Discussion, Mr. Szczuka questioned if they should move with other provisions of the probation as in some terms under the probation. Mr. Schranck stated the term of probation in NJ includes the condition of the evidence of tier one classification and would stay as tier one status and if not, would violate his probation. Mr. Szczuka stated this was holding up his vote. Mr. Szymanski amended his motion, seconded by Mr. Bielicki, to include classification of tier one status as NJ has it in Mr. McKenna's probation order. Motion failed by Mr. Szczuka not voting on new motion. Mr. Schranck stated that if Mr. Szczuka wanted to have probation as described before and to include that Mr. McKenna be evaluated during his probation period as tier one and to receive confirmation that Mr. McKenna keeps his tier one status he should make a motion to that effect and see if it passes.

Mr. Szczuka made a motion, seconded by Mr. Szymanski that part of Mr. McKenna's probation will be that he will need to have a risk assessment completed within 30 days of receiving the final order. Discussion, Mr. Szymanski stated for clarification that the motion will be probation to run concurrent with NJ probation, maintain tier one status, and after receiving final order will have 30 days to get a risk assessment completed in Delaware and submitted to the Board. After stating the clarification of probation the motion failed by vote of 3 to 1, with Mr. Szczuka being the only yes. The Board had another discussion about Mr. McKenna being evaluated for a risk assessment. Mr. Sellers doesn't think an evaluation should be done. The Board can not come to an agreement to the evaluation being done. The terms of probation for Mr. McKenna are still being discussed by the Board. Deliberations were suspended due to Hearings being scheduled to start at 10:00 a.m. Deliberations started back up at 10:58 a.m. After much discussion about what terms should be put on the probation of Mr. McKenna, Mr. Szymanski made a motion, seconded by Mr. Szczuka, to have probation run concurrent to New Jersey's probation, which will be until January 13, 2013, to have Mr. McKenna to stay on tier one status as stated in his order from NJ, and to have a full sexual assessment completed

before his probation period ends. Mr. McKenna may contact the Division for the assessment contact information. The motion unanimously carried.

Discussion of Letter from Victor Battaglia

The Board started a discussion about the proposed revisions to the rules and regulations. Mr. Schranck discussed with the Board about Mr. Battaglia's possible filing against the regulatory rules, which will be going into effect on January 10, 2011. Mr. Schranck explained to the Board how this will work if they proceed with the law suit.

Discussion of Letter from Stephen Johns

Mr. Johns letter asked the Board to allow a carry over for PDHs. The Board had a discussion on whether that would be allowed or not and they said that carrying over PDHs cause a burden on the Division of Professional Regulation to try and keep track of carry over credits.

Mr. Szczuka made a motion, seconded by Ms. Chvostal, to leave the PDHs and approval the way it is now. The motion carried with majority vote, with Mr. Bielicki opposed.

Discussion took place over whether ethics should be allowed only to be carried over or if the Board should allow ethics courses to be integrated into other courses. This is something that the different educators would have to look into.

Mr. Szczuka made a motion, seconded by Mr. McBride, to keep the ethics course requirement the way it is now. The vote carried by majority, with Mr. Szymanski and Mr. Bielicki abstaining.

After discussing the letter from Mr. Johns, the Board was wondering if they should ask for written comments by individuals about their interest on their PDHs.

Mr. Schranck discussed with the Board about the limitations the Board has on disciplinary actions that the Board are able to take. Mr. Schranck spoke to Mr. Nickerson, who is in charge of the investigators, about bringing smaller complaints to the Board and letting them take care of the smaller cases, so that the complaints could possibly move along faster.

Hearings

See Hearing notes at bottom of minutes.

NEW BUSINESS

Courses for Continuing Education Approval

Mr. Szymanski reviewed the applications for PDH approval from Steven Adkins. Mr. Szymanski made a motion, seconded by Mr. McBride, to approve both of Mr. Adkins applications for PA Society of Land Surveyors courses namely, GPS for the Field Surveyor and Control Surveying with GPS for 3.5 PDHs each. The motion was unanimously approved.

Mr. Szymanski reviewed the application for PDH approval from Mark Husik. Mr. Szymanski made a motion, seconded by Mr. McBride, to approve all courses of the New Jersey Society of PLS-Surveyors Conference 2011. The motion was approved unanimously.

Mr. Szymanski reviewed the application for PDH approval from Shari Taylor. Mr. Szymanski made motion, seconded by Mr. McBride, to approve all courses of the PA Society of Land Surveyors-Annual Conference 2011. The motion was approved unanimously.

Complaint Assignments

There were no new complaint assignments.

Complaint Status

No changes to complaint status.

Hearings/Consent Agreements/Board Orders

None

Closed Complaints

None

Wall Certificates

None

Audit Compliance Update

No updates at this time.

Election of Officers

Discussion on who should be elected as Chair, Vice Chair, and Secretary took place. Mr. McBride made a motion, seconded by Ms. Chvostal, to have Mr. Szymanski as Chair, Mr. Bielicki as Vice Chair, and Mr. Szczuka as Secretary. The motion carried by majority, with Mr. Szymanski abstaining.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

The Board discussed the letter that Mr. Szymanski wanted to send to Mr. Crouch. The Discussion started with questioning if an Engineer can do Land Surveying and signing off on completion of plans. It was brought up that in Sussex County only a licensed Land Surveyor can seal an ordinance. The Board decided to send the letter, after amending, to Mr. Crouch.

Mr. Szczuka asked if the rules and regulations stated that Land Surveyors have a duty to report possible infractions. He stated that this duty to report right now applies to Medical and Health associated Boards.

PUBLIC COMMENT

There was no public comment.

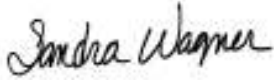
NEXT MEETING

The next scheduled meeting of the board is January 20, 2011 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Mr. Szymanski made a motion, seconded by Ms. Chvostal to adjourn the meeting at 1:02 p.m. The motion was unanimously approved.

Respectfully Submitted,



Sandra Wagner
Administrative Specialist III

HEARING MINUTES

HEARING – Uzoma Ahiaarakwe

The Delaware Board of Professional Land Surveyors held a hearing on December 16, 2010, at 10:20 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: Frank Szczuka, James Bielicki, Michael Szymanski, Stephen Sellers, Laurence McBride, and Mary Chvostal

RECUSED:

EXCUSED:

PURPOSE: Show Cause Hearing

PRESIDING: Stephen Sellers, Chair

BOARD STAFF: Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, Esq.

DEPUTY ATTORNEY GENERAL FOR THE STATE:

RESPONDENT: Uzoma Ahiaarakwe

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE:

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Juli LaBadia, Wilcox and Fetzer

TIME STARTED: 10:20 a.m.

The court reporter took verbatim testimony. Mr. Schranck described the reason for the hearing and confirmed Mr. Ahiaarakwe was present for the Hearing and was without counsel. Mr. Ahiaarakwe stated that he is sorry for being late and is asking forgiveness from the Board. The Board went off the record for deliberations at 10:39 a.m. The Board went back on the record at 10:43 a.m. Mr. Szczuka made a motion, seconded by Mr. McBride to grant the extension of Mr. Ahiaarakwe's Board order to October 2, 2010.

The motion carried with Mr. Szymanski opposing.
The hearing concluded at 10:44 a.m.

HEARING MINUTES

HEARING – John VanSickle

The Delaware Board of Professional Land Surveyors held a hearing on December 16, 2010, at 10:46 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: Frank Szczuka, James Bielicki, Michael Szymanski, Stephen Sellers, Laurence McBride, and Mary Chvostal

RECUSED:

EXCUSED:

PURPOSE: Proposed to Deny

PRESIDING: Stephen Sellers, Chair

BOARD STAFF: Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, Esq.

DEPUTY ATTORNEY GENERAL FOR THE STATE:

RESPONDENT: John VanSickle

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE:

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Juli LaBadia, Wilcox and Fetzer

TIME STARTED: 10:46 a.m.

The court reporter took verbatim testimony. Mr. Schranck described the reason for the hearing and confirmed that Mr. VanSickle was present for the Hearing and was without counsel. Mr. VanSickle explained the charges to the Board. The Board went off the record for deliberations at 10:56 a.m. The Board went back on the record at 10:57 a.m. Ms. Chvostal made a motion, seconded by Mr. McBride to grant waiver to Mr. VanSickle from his criminal charges that are over 5 years old and to grant Mr. VanSickle approval to sit for the exams associated with licensure.

The motion was unanimously approved.
The hearing concluded at 10:58 a.m.